

1 XAVIER BECERRA
2 Attorney General of California.
3 JOANNA B. HOOD
4 Supervising Deputy Attorney General
5 NAMRATA KOTWANI
6 Deputy Attorney General
7 State Bar No. 308741
8 455 Golden Gate Avenue, Suite 11000
9 San Francisco, CA 94102
10 Telephone: (415) 510-4431
11 Fax: (415) 703-5843
12 E-mail: Namrata.Kotwani@doj.ca.gov
13 *Attorneys for Defendants Gavin Newsom and the*
14 *California Department of Corrections and*
15 *Rehabilitation*

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION

12
13 JOHN ARMSTRONG, et al.,

14 Plaintiffs,

15 v.

16 GAVIN NEWSOM, et al.,

17 Defendants.

18 Case No. 94-cv-02307 CW

19
20 **DECLARATION OF S. MEDINA IN
21 SUPPORT OF DEFENDANTS' SUR-
22 REPLY TO PLAINTIFFS' MOTION FOR
23 A PERMANENT INJUNCTION AT
24 SEVEN PRISONS AND STATEWIDE**

25 I, S. Medina, declare:

26 1. I am employed with the California Department of Corrections and Rehabilitation
27 (CDCR) at Mule Creek State Prison. I am a Correctional Officer. I am competent to testify to the
28 matters set forth in this declaration and, if called upon by this Court, I could and would so testify.
I submit this declaration in support of Defendants' Sur-Reply to Plaintiffs' Motion for an
Injunction at Seven Prisons and Statewide.

2. On Thursday, August 27, 2020, I was performing my duties as EOP (Enhanced
Outpatient Program) Escort No. 2 for Facility A, Building 5. I saw Officer R. Cook attempt to
explain to Inmate [REDACTED] why he was removed from his porter job.

1 3. Inmate [REDACTED] immediately became agitated and walked away, attempting to get on
 2 the phone in the C-Section Dayroom in Building 5. The phones were not activated because the
 3 Dayroom was not open. Inmate [REDACTED] returned to the Building 5 Officers Podium facing the C-
 4 Section Dayroom, pacing back and forth with his hands clenched into fists, yelling at Officer R.
 5 Cook “You’re a racist! You’re a fuck n---a!” Due to his agitated and aggressive behavior, I gave
 6 Inmate [REDACTED] a direct order to return to his assigned cell. Inmate [REDACTED] stated, “Fuck you! I’m
 7 not going.”

8 4. Due to Inmate [REDACTED] present aggressive behavior and the possibility of him
 9 becoming violent, I left the Building 5 Officer’s Podium and gave Inmate [REDACTED] a direct order to
 10 submit to handcuffs. As I was approaching Inmate [REDACTED] he stated, “What are you going to do?”
 11 and sat down on the Dayroom floor. I gave Inmate [REDACTED] another direct order to submit to
 12 handcuffs. Inmate [REDACTED] stated, “No fuck you! Don’t touch me!” Simultaneously, I attempted to
 13 grab Inmate [REDACTED] right wrist with my right hand. Inmate [REDACTED] immediately began resisting by
 14 pulling his right arm away from me and spun to face me with his back to Officer R. Cook. Using
 15 my right hand, I grabbed Inmate [REDACTED] right arm. Next, I gave Inmate [REDACTED] a direct order to
 16 stop resisting. Inmate [REDACTED] continued to resist by thrashing his body from side to side. Officer
 17 R. Cook grabbed Inmate [REDACTED] by his shoulders with both hands, forcing Inmate [REDACTED] face down
 18 on the ground. I lost my grip of Inmate [REDACTED] right arm because he pulled his right arm under
 19 his body. Using my left hand, I grabbed Inmate [REDACTED] right elbow and pulled his arm from
 20 under him. Inmate [REDACTED] continued to resist by attempting to pull his arm under his body. Using
 21 my right hand, I grabbed Inmate [REDACTED] right wrist, forcing his right arm behind his back. I let
 22 go of my left grip, grabbed handcuffs, and cuffed Inmate [REDACTED] right wrist. Officer R. Cook
 23 had Inmate [REDACTED] left arm behind his back, and I cuffed his left wrist.

24 5. Inmate [REDACTED] attempted to incite the inmate population by yelling “I can’t breathe!” I
 25 assisted Inmate [REDACTED] into a seated position without resistance. Officer R. Cook attempted to
 26 place leg restraints on Inmate [REDACTED] as he was kicking his legs. Inmate [REDACTED] stated, “Don’t put
 27 those on me!” and began to resist again by kicking his feet.

6. Officer E. Brazil placed Inmate [REDACTED] in the prone position and Officer R. Cook placed the leg restraints on Inmate [REDACTED] ankles. After Inmate [REDACTED] was secured in leg restraints, he stopped resisting and was escorted out of the building by Officer E. Brazil and Officer C. Winkler.

7. I returned to my duties.

8. I wrote an incident report documenting this incident the same day, August 27, 2020. Attached to this declaration as **Exhibit A** is a true and correct copy of my report. This report accurately describes what I observed that day, and I incorporate the contents of my report into this declaration by reference.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 12, 2020, in Ione, California.

[Signature]

S. Medina, Correctional Officer
Mule Creek State Prison
California Department of Corrections and Rehabilitation

EXHIBIT A

CDCR

REPORT NO. [REDACTED]

INCIDENT REPORT PACKAGE

PAGE: 31

INCIDENT LOG NUMBER: [REDACTED]

PROCESSED: 10/02/2020 12:42

REQUESTOR: E. Laird

STAFF NARRATIVE

STAFF NAME: Medina, § [REDACTED]
CREATED DATE: 08/27/2020

NARRATIVE TYPE: Initial Report
CREATED TIME: 14:49:27

NARRATIVE

On Thursday, August 27, 2020, at approximately 0824 hours, while performing my duties as HCA A5 EOP ESCORT #2 in Building 5, Officer R. COOK attempted to explain to inmate [REDACTED] why he was removed from his porter job. [REDACTED] immediately became agitated and walked away attempting to get on the phone in C-Section Dayroom in Building 5. The phones were not activated because Dayroom was not open. [REDACTED] returned to the Building 5 Officers Podium facing C-Section Dayroom, pacing back and forth with his hands clinched into fists, yelling at Officer R. COOK stating "You're a racist! You're a fuck nigga!" Due to his agitated and aggressive behavior, I gave [REDACTED] a direct order to return to his assigned cell. [REDACTED] stated, "Fuck you! I'm not going." Due to [REDACTED] present aggressive behavior and the likelihood he may become violent, I left the Building 5 Officers Podium and gave [REDACTED] a direct order to submit to handcuffs. As I was approaching [REDACTED] he stated, "What are you going to do," and sat down on the Dayroom Floor. I gave [REDACTED] another direct order to submit to handcuffs. [REDACTED] stated, "No fuck you! Don't touch me!" and simultaneously I attempted to grab [REDACTED] right wrist with my right hand to effect custody. [REDACTED] immediately began resisting by pulling his right arm away from me and spun facing me with his back to Officer R. COOK. Using my right hand, I grabbed [REDACTED] right arm and I gave [REDACTED] a direct order to stop resisting. [REDACTED] continued to resist by thrashing his body from side to side. Officer R. COOK grabbed [REDACTED] by his shoulders with his left and right hands, forcing [REDACTED] face down on the ground. I lost my grip of [REDACTED] right arm due to [REDACTED] pulling his right arm under his body. Using my left hand, I grabbed [REDACTED] right elbow pulling his arm from under him. [REDACTED] continued to resist by attempting to pull his arm under his body. Using my right hand, I grabbed [REDACTED] right wrist forcing [REDACTED] right arm behind his back. I let go of my left grip and grabbed my hand cuffs and placed one side of the hand cuff on [REDACTED] right wrist. Officer R. COOK had [REDACTED] left arm behind his back and I placed the other side of the hand cuffs on his left wrist. [REDACTED] attempted to insight the inmate population and began yelling "I can't breathe!" I placed [REDACTED] in a seated position without resistance. Officer R. COOK attempted to place leg restraints on [REDACTED] due to his aggressive behavior and [REDACTED] kicking his legs. [REDACTED] stated, "Don't put those on me!" and began to resist again by kicking his feet. Officer E. BRAZIL placed [REDACTED] in the prone position and Officer R. COOK placed the leg restraints on [REDACTED] ankles. After [REDACTED] was secured in leg restraints, he stopped resisting and was escorted out of Building 5 by Officer E. BRAZIL and Officer C. WINKLER. I returned to my duties as HCA A5 EOP ESCORT # 2.

[REDACTED] is a participant of a Mental Health Service Delivery System at the Enhanced Outpatient Program level of care and the Developmental Disability Program at the DD2 level of care. Due to the emergent nature of the incident, I was unable to address [REDACTED] adaptive support needs at the time of incident and/or prior to the use of force. [REDACTED] additive supports are as follows:

1. Communication - Redirect to deescalate when agitated
2. Rules and Procedures - Assist adjusting to new environment
3. Victimization - Vulnerable to pressuring/teasing

S. Medina

DATE: 08/27/2020

STAFF SIGNATURE

BADGE #: 83222**PERNR:** 87695**NARRATIVE REVIEWED:** Yes**REVIEWED BY STAFF:** McTaggart, K [REDACTED]**REVIEWED DATE:** 08/27/2020**REVIEWED TIME:** 14:58:01

CDCR

REPORT NO. [REDACTED]

INCIDENT REPORT PACKAGE

PAGE: 32

INCIDENT LOG NUMBER: [REDACTED]

PROCESSED: 10/02/2020 12:42

REQUESTOR: E. Laird

STAFF NARRATIVE

STAFF NAME: Medina, S [REDACTED]
CREATED DATE: 08/30/2020

NARRATIVE TYPE: Supplemental Report
CREATED TIME: 13:34:40

NARRATIVE

Q1. Did [REDACTED] stop resisting after he was secured in handcuffs?

A1: Yes he stopped resisting.

S. Medina _____

DATE: 08/30/2020

STAFF SIGNATURE

BADGE #: 83222

PERNR: 87695

NARRATIVE REVIEWED: Yes
REVIEWED DATE: 08/31/2020

REVIEWED BY STAFF: McTaggart, K [REDACTED]
REVIEWED TIME: 08:27:46

STAFF NAME: Medina, Sean
CREATED DATE: 08/31/2020

NARRATIVE TYPE: Supplemental Report
CREATED TIME: 11:06:58

NARRATIVE

Q1. In your report you stated, '[REDACTED] stated, "Don't put those on me!" and began to resist again by kicking his feet. Officer E. BRAZIL placed [REDACTED] in the prone position and Officer R. COOK placed the leg restraints on [REDACTED] ankles." Did you observe Officer Cook use force when securing inmate [REDACTED] in leg restraints?

A1. Yes, I observed Officer Cook use physical force by grabbing [REDACTED] left ankle with his right and left hand and securing it in restraints then grabbing [REDACTED] right ankle with his right and left hand and securing it in restraints.

S. Medina _____

DATE: 08/31/2020

STAFF SIGNATURE

BADGE #: 83222

PERNR: 87695

NARRATIVE REVIEWED: Yes
REVIEWED DATE: 08/31/2020

REVIEWED BY STAFF: McTaggart, K [REDACTED]
REVIEWED TIME: 11:10:45